

APPROVED MARCH 10, 2009

KENTUCKY BOARD OF HOME INSPECTORS

DEPARTMENT OF HOUSING BUILDINGS AND CONSTRUCTION

100 Sea Hero Drive
Suite 100
Frankfort KY 40601

February 17, 2009
9:00 a.m.

Present Board Members:

D. Michael Green, Chairman
Michael Patton, Vice Chairman
Michael Powers, Commissioner's Proxy
James R. Bone
Linda Swearingen
Ralph Wirth
William J. Welty, Sr.
Mark Schmidt

Absent Board Member:

Richard Flora

Guests:

Gary Yowan
Steve Keeney, PLI
Lori Keeney, PLI
Carolyn Quisenbury, A – Pass – Weikel Institute

Department Staff:

Wendy Anderson, Secretary
Michael Bennett, Staff Attorney
Michael Powers, Commissioner Proxy

Meeting Called to Order at 9:15 a.m.

Rose Baker swore Mark Schmidt in as a new member of the Kentucky Board of Home Inspectors.

The Chairman had Mr. Mike Powers and Ms. Wendy Anderson introduce themselves to the Kentucky Board of Home Inspectors. Mr. Powers is the new proxy for the Department of Housing Buildings and Construction Commissioner, Richard Moloney.

Review of January 13, 2009 minutes

The Board corrected the minutes and the Secretary noted said changes, Mr. Powers moved the Board to approve the January 13, 2009 minutes. Mr. Bone seconded the Motion. The Motion carried unanimously.

Old Business

A. Board Sponsored Continuing Education Classes

Mr. Bennett spoke with the Department's procurement officer, Ceibert Faulkner. He said if the Board guarantees a facility for less than one thousand dollars, then only one bid to be secured. However, if the facility cost between one thousand and three thousand dollars, then the Board must secure three bids. He said mentioned another alternative would be to guarantee a state park as the facility. The Department will treat the transaction as an "inter account". An "inter account" is much easier to process when it is between two agencies.

The Board wanted to know how they could guarantee continuing education instructor. Mr. Powers suggested an instructor sign a personal services contract.

Other questions were how many continuing education programs should the Board sponsor, could the Board be paid to appear at the program and where should be program(s) be held.

Guests who were also continuing education and pre-licensing education providers confirmed to the Board this was a great idea. It could bring a spark to the Kentucky Home Inspectors. However, there was concern from Board Members Ms. Swearingen and others, that these free continuing education program(s) would cut into the paid continuing education programs.

The Chair solicited volunteers to form a committee to organize a Board sponsored continuing education program(s). The Chair nominated:

- 1) James Bone
- 2) Mark Schmidt
- 3) Mike Powers

Mr. Wirth moved the Board to sponsor continuing education program(s) and confirm Mr. Bone, Mr. Schmidt and Mr. Powers to a new committee responsible to organize the continuing education program(s). Mr. Welty second the Motion. The Board approved the Motion unanimously.

There was further discussion such as should the program be a two day program, could this be a "convention" instead of a program, on what dates be to hold the program (s), the location (s) for the programs, and when would be best rates be offered. The Chair indicated the committee would supply a report to the board later.

B. Lowering Licensing Renewal Fees

Chair inquired whether the Board could lower licensing fees. Mr. Michael Bennett concluded if the Board lowered fees, it would be highly unlikely the Board could increase them in the future if necessary. Further, with these continuing education programs, the Board may need this money. Mr. Powers suggested deferring this question for at least a year. Mr. Bone moved the Board to table this issue for at least a year. Mr. Powers second the Motion. The motion passed unanimously.

C. Board Members Per Diem Increase

Mr. Bennett indicated to the Board that the only way Board members may receive a monetary increase is to amend the statute. The Chair argued the statute presently has their pay as “at least” and they receive the least amount. In addition, the Board has the funds to be able to increase their fee. Mr. Bennett reiterated the statutory change is the only alternative to this issue.

In an unrelated issue, the Chair suggested the travel vouchers should be in board member’s packets instead of e-mailed to each member. The Secretary noted the demand.

D. Advisory Bulletin

The ‘Right to Cure’ bulletin.

The “right to cure” language notices the customer that he has a right to demand a “cure” for a deficient home inspection. This requirement protects the customer **and** the home inspector.

Mr. Wirth moved the Board to approve this bulletin and Ms. Swearingen seconded the Motion. The motion passed unanimously and the bulletin shall be placed in the board notebook

Could someone with a Kentucky Home Inspector license be on site with others without a Kentucky Home Inspector license and have the non-licensees conduct the home inspection?

The Board members said this practice is in violation of statutory intent. Each individual earns a license, not a corporation. Mr. Welty suggested investigating the company to confirm their practices are not violating Kentucky law.

Recusal

Chair inquired whether the meeting could go into executive session. Mr. Bennett advised the Board did not have a plausible reason to go into executive session.

The issue is whether members of the Board should have recused themselves from voting if he or she feels there may be a conflict of interest. Mr. Bennett advised the

Board they could not be lobbied or be influenced unduly. He went on to say the Board does not have an obligation to recuse themselves. They have to determine whether their vote gives the look of impropriety. Robert's Rules of Order does not advise members on recusal. It is up to the individual. Further, the Board will not lose their quorum if some members abstain from voting. Further, recusal will not affect regular business.

Steve Keeney spoke on the issue that will be addressed in the next board meeting. He argued KREIA failed to submit a syllabus or an outline when Board approved a new business class at its last meeting. Mr. Keeney said the Board did not have a course syllabus or outline when it approved the class title. He said the KREIA had changed the title of the class after the Board approved the class and reduced the number of credit hours from three to two.

Mr. Wirth moved the Board to acknowledge that the Board had received the Keeney complaint on February 17, 2009 and will address this issue at the next board meeting in March. Mr. Schmidt second the Motion and the Board unanimously approved the Motion.

The Chair stated that the Board's Code of Ethics has not been issued to three members. The Board should discuss the Code of Ethics at next month's board meeting.

Review of Inspection Reports

Ms. Anderson advised the Chair that no staff in the Department is qualified to review a Kentucky Home Inspector's report. The Chair queried the Board for ideas to address this problem. The Board believes the reviews help home inspector and devise future continuing education for the Kentucky Home Inspectors. Guest Mr. Keeney suggested a continuing education instructor review the reports. Mr. Powers indicated the instructor could sign a personal services contract for a set fee. Mr. Patton suggested forming a committee. The Chair suggested the compliance committee could review these inspection reports. Mr. Bone inquired whether staff could review these reports in the future. Mr. Powers questioned whether the home inspectors would like a non-licensed inspector to review the reports. The Board indicated they would not like a non-inspector to review the reports. The Board debated whether inspection reports are required for a renewal license. Mr. Bennett cited 815 KAR 6:010, which states an inspector is required to submit a completed inspection report. The statute defines "inspection report". Mr. Patton moved the Board to form a committee to review inspector reports. Some board members questioned whether placing the compliance committee, as this committee is part of the motion. The Chair said it was a suggestion. Mr. Patton moved the Board and Ms. Swearingen second the Motion. The Board carried the Motion 6-2 with Messrs. Wirth and Welty opposed the Motion.

Chair asked for volunteers and the following volunteers were accepted:

- 1) Linda Swearingen
- 2) J.R. Bone
- 3) Mike Patton

Mr. Wirth moved the Board to guarantee this process would not slow the renewal process. Mr. Powers seconded the Motion. The Motion carried unanimously.

Gary Yowan

Mr. Yowan appeared to request the Board to allow him to renew his license without having to go through the pre-licensing classes and exam. He said he mistakenly believed his renewal notice was a continuing education notice and discarded it. Mr. Patton questioned Mr. Yowan whether he was “grandfathered” as a Kentucky Home Inspector. Mr. Yowan indicated he was. Mr. Bennett questioned whether he completed and passed the exam and Mr. Yowan said no. Mr. Yowan said he thought he was supposed to renew his license at the end of the calendar year despite the fact he renewed his license properly the year before. The Chair inquired whether they could go into closed session and Mr. Bennett said they could not. Some board members indicated that if he had completed the pre-licensing courses and passed the exam, then the Board could negotiate requirements for a renewal. However, since Mr. Yowan was “grandfathered”, then he has to complete the 64 hours, take, and pass an exam.

Mr. Yowan explained other inspection programs have a grace period or a late fee. Mr. Wirth indicated to Mr. Yowan that the statute does not allow it for the Kentucky Home Inspectors.

New Applications

Ms. Anderson inquired when the deadline should be for accepting license applications. The Chair said applications should be in seven (7) days before the meeting commences. Mr. Schmidt questioned whether there should be a policy behind this. The Chair advised there is a checklist in place. Ms. Anderson was not aware of the checklist and therefore none of the new applications was prepared for review. These will be up for board review at the next board meeting.

Applicant Nick Caudill

Mr. Caudill was conditionally approved. He submitted a judge’s letter indicating he is currently a court magistrate in Rowan County. Moreover, his criminal offense occurred in 1987. The Chair advised the Board if an offense occurred over five (5) years ago, then an inspector is usually approved. Mr. With moved the Board to approve Mr. Caudill. Mr. Patton second the Motion and it carried unanimously.

Stephen James

Ms. Anderson advised the Board Mr. James wishes his license to be terminated. His insurance will lapse this month. The Chair directed Ms. Anderson to draft a letter demanding his license be returned to the Department of Housing Buildings and Construction. Mr. Bennett suggested to Ms. Anderson to contact Mr. James to determine whether he really wants to surrender his license. The Chair suggested once the license is

returned, then Mr. James's license will be terminated. Mr. Schmidt moved the Board to terminate Mr. James upon return of his license to the Department of Housing Buildings and Construction. Mr. Wirth second the Motion and it carried unanimously.

Renewals

Ms. Anderson explained to the Board the previous administrator failed to supply inspectors their sixty (60) day notice for renewals as required per statute. Therefore, after consultation with counsel, she gave inspectors additional time to submit their renewal applications. Ms. Anderson advised the Board there will not be any further issues with renewal notices.

Complaints – Michael Bennett

Leslie Adams wanted to lodge a complaint more than 12 months after the house was inspected. Mr. Bennett needed advice on what to do with this complainant. The Chair advised Mr. Bennett to allow her to file a formal complaint and go through the process.

Steve Prewitt – Mr. Bennett saw an ad promoting Mr. Prewitt's business that did not include the home inspector license number. Mr. Bennett sent Mr. Prewitt a cease and desist letter. Mr. Prewitt advised Mr. Bennett it was an oversight on his part and as soon as his pre-paid ads run, he will include his license on all subsequent ads. The Chair directs the secretary to put the report in his file for future reference.

Jessie Aronstein – Mr. Bennett updated the Board on Mr. Aronstein. Mr. Aronstein modified his previous statement with the Federal Pacific Electric circuit breakers. Steve Keeney gave an explanation as to why Mr. Aronstein is so laborious. The Chair advised the Board to refer to advisory bulletin for instruction.

Mr. Ray Rumancik - Mr. Rumancik is apparently conducting home inspections without a license. Although they had not completed written complaints, two other inspectors complained to the Board. They have filed complaints with the Boyle County Attorney's Office. The Boyle County Attorney's Office defers to this Board. Mr. Bennett advised conducting a show cause hearing –to determine if Mr. Rumancik is unlawfully conducting home inspections. If the Board determines he is conducting home inspections, then the Board will issue a cease and desist letter to Mr. Rumancik. If he continues to inspect houses, he will be in contempt of court.

Mr. Bennett advised the Board on notice. Mr. Bennett issues a letter via registered mail. The post office will give Mr. Rumancik opportunities to sign for the letter. If he refuses, the postal worker notices the letter as 'delivery refused'. If that is the case, then he will be in default, and the cease and desist letter will go out to him. If he decides to conduct inspections, he will be held to be under contempt of court.

Continuing Education Approval

The Professional Learning Institute submitted three classes for Board approval. These classes were denied in 2006. They were modified for today's approval. They are three classes with the opportunity to earn up to six credits. Mr. Patton moved the Board to approve The Professional Learning Institute's classes. Ms. Swearingen seconded the Motion and the Motion carried unanimously.

Renewal Notice

Mr. Welty would like the staff to list all the licensees who had not received timely notice to renew their license. Therefore, he moved the Board for the staff to make said list. Mr. Patton seconded the Motion and the Motion carried unanimously.

Regulations 815 KAR 6:010

Mr. Patton led the Board through these changes to the regulation. In particular, 815 KAR 6:010 sections six and seven. Section 6 subsections a, b, and c should be deleted because there will be no more grandfathering.

Section (d) of section six should read as required for a license renewal, a completed inspection report and signed inspection agreement or signed home inspection report.

Section 7 is the continuing education section. If a license holder has his license for less than one year then he is not required to complete continuing education. If he has his license for one year, then he is required to complete 14 hours of continuing education. For a two-year license, the license is required to complete 28 hours of continuing education (14 hours per year).

For the next board meeting, the Chair requested all regulation changes be in writing. He said a regulation discussion should be on the top of the next board agenda.

Proposed By-laws

Mike Bennett advised the Board there are proposed by-laws in the member's packets. The Board should look over them and make comments at next month's board meeting.

HVAC Investigation

Mike Powers returned from discussing the Rumancik case with HVAC. They agreed to investigate him. If they could have property made available for Mr. Rumancik to inspect, then an investigator will call Mr. Rumancik to conduct an inspection. The minimum charge for the investigation is at least \$400. The Chair advised the board members to stay away from this. Some wonder whether this could be an entrapment situation.

Procedural issues

Mike Powers advised the Chair and the Board the agenda should be posted on the website ten days before the board meeting. The Chair said he could not post the agenda until he reviews the minutes.

Mr. Powers questioned how far back the Board should keep past minutes in the notebook. The Chair advised every set of minutes should be in the notebook, because it is a rotating board and this would be a good way to keep future members abreast of issues already debated.

Adjournment

Mr. Welty moved the Board to adjourn for the day. Mr. Patton second the Motion and it unanimously carried.

Next Board Meeting will be held Tuesday March 10th at 9:00 am at the Department of Housing Buildings and Construction.